TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
ALM.022

In Re Application Of: N. Sundaresan
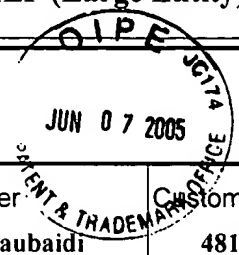
JUN 0 7 2005

Application No. 09/672,304	Filing Date September 29, 2000	Examiner Haythim J. Alaubaidi	Customer No. 48146	Group Art Unit 2161	Confirmation No. 2605

Invention: **METHOD AND SYSTEM FOR SELECTIVELY ACCESSING FILES ACCESSIBLE THROUGH A NETWORK**

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P30LARGE/REV06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

N. Sundaresan

Serial No.:	09/672,304	**Group Art Unit:**	2161
Filed:	September 29, 2000	**Examiner:**	Alaubaidi, Haythim J.

For: METHOD AND SYSTEM FOR SELECTIVELY ACCESSING FILES ACCESSIBLE
THROUGH A NETWORK

Honorable Commissioner of Patents
Alexandria, VA 22313 - 1450

APPEAL BRIEF

Sir:

This paper is a brief on appeal from the Examiner's Final Rejection of all claims 1-23 in

an Office Action dated December 8, 2004. This brief on appeal is accompanied by the fee set

forth in § 41.20(b)(2).

I.   REAL PARTY IN INTEREST

The real party in interest in the present application is International Business Machines

Corporation pursuant to an Assignment of 100% interest in the patent application under appeal

that was recorded on September 29, 2000, by the United States Patent and Trademark Office at

Reel No. 011161, Frame No. 0628.

II.   RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellants, Appellants' legal

representative, or Assignee, which would directly affect or be directly affected by or have a

bearing on the Board's decision in this appeal.

III.   STATUS OF CLAIMS

Claims 1-23 are all the claims presently pending in the application. Claims 1-23 stand

rejected under 35 U.S.C. § 103(a) as being anticipated by the Ronning et al. reference in view of

the Yamane et al. reference. Claims 1, 7, 17, and 23 are independent.

All of the currently pending claims 1-23 are being appealed.

IV.   STATUS OF AMENDMENTS

The Amendment filed on February 8, 2005, in response to the December 8, 2004, Office

Action, was not entered by the Examiner as allegedly raising new issues.

The most recently entered Amendment was filed on June 7, 2004.

The claims in the attached Appendix reflect the version of the claims after entry of the

June 7, 2004, Amendment.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

An exemplary embodiment of the claimed invention is directed to a method for searching

files stored on a network. The method includes downloading a first file on the network from a

server to a client (steps 110 and 120 of Figure 1, page 7, lines 13 - 16), accessing time data from

within the first file (also steps 110 and 120 of Figure1), and setting an accessing time to access a

second file on the server based on the time data from the first file (steps 130 and 140 of Figure 1,

page 7, line 16 - page 8, line 2). The time data including the actual time when the second file is

scheduled to be updated (e.g., corresponding to when files on a web site are scheduled to be

"pushed" as indicated by a channel definition file, page 8, lines 2 - 4).

All of the independent claims recite time data that includes an actual time when a second

file is scheduled to be updated.

Conventional network file search engines conduct searches for updated files on networks

periodically, such as at regular intervals. One problem with these conventional systems is that

these systems do not have any method for determining when a web site might be scheduled to be

updated. Depending on how often a web site is updated, the web crawler's archive data could be

very outdated. On the other hand, frequent web crawler visits to web sites which are not

frequently updated consume valuable computer resources.

The present invention provides a method for determining when and how often a web

crawler should return to a web site. The present invention provides this advantage because the method downloads a first file on a network, accesses time data from within the first file and sets an access time to access a second file based upon the time data from within the first file, where that time data indicates when the second file is <u>scheduled to be updated</u>.

In an exemplary embodiment of the present invention, the method accesses a channel definition format (CDF) file which provides an indication of when a particular channel (and/or subchannel) is scheduled to be updated (see page 4, line 15 - page 5, line 2). Therefore, in this exemplary embodiment the first file is the CDF and the second file is the channel.

In this manner, the present invention provides for more efficient web crawling of a web site by crawling the site when and where it is likely the information contained therein is updated (page 6, lines 7-15).

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellants present the following issue for review by the Board of Patent Appeals and Interferences.

Whether the references applied by the Examiner in the obviousness rejection teach or suggest all the claim limitations.

In particular, all of the independent claims 1, 7, 17, and 23 recite time data that includes an actual time when a second file is <u>scheduled to be updated</u>.

None of the applied references teaches or suggests time data that includes an actual time when a second file is <u>scheduled to be updated</u>.

VII.   ARGUMENT

The applied references <u>do not</u> teach or suggest all the claim limitations.

> *"To establish a prima facie case of obviousness, three basic criteria must*
>
> *be met. . . .Finally, the prior art reference (or references when combined) must*
>
> *teach or suggest all the claims limitations."* (M.P.E.P. § 2143).

<u>None of the applied references</u> teaches or suggests the features of the present invention including: 1) setting an accessing time to access a second file on a server based on time data that includes an actual time when the second file is <u>scheduled to be updated</u> (independent claims 1 and 17); 2) setting an accessing time to re-access a server based on time data that includes an actual time when a second file is <u>scheduled to be updated</u> (independent claim 7); and 3) means for setting an accessing time to access a second file on a server based on time data that includes an actual time when the second file is <u>scheduled to be updated</u> (independent claim 23).

All of the independent claims recite an actual time when a second file is <u>scheduled to be updated.</u>

The Examiner admits that the Ronning et al. reference "does not explicitly indicate: . . . the time data is an actual time for future updates (scheduled updates)." (Page 5, line 21 - page 6, line 2 of the December 8, 2004, Office Action).

The Examiner alleges that the Yamane et al. reference remedies the deficiencies of the Ronning et al. reference. However, the Examiner fails to present a *prima facie* case for obviousness by failing to provide a prior art reference that teaches or suggests all of the claim

limitations.

In particular, the Examiner has failed to apply a reference that teaches or suggests an

actual time when a second file is <u>scheduled to be updated</u>.

Indeed, the Examiner <u>fails to allege</u> that <u>any</u> of the applied references teaches or suggests

an actual time when the second file is <u>scheduled to be updated</u>.

Rather, the Examiner merely alleges that the Yamane et al. reference teaches "wherein the

time data is an actual time for a future update (Figure 2, i.e. next update prediction time)" and "a

system where it predicts a future update including setting an actual time ate (sic) of when this

update will occur (Col 5, lines 48-56)." (Page 6, lines 5-6 and 11-12, respectively).

Contrary to the Examiner's allegation, the Yamane et al. reference <u>does not</u> teach or

suggest time data that includes an actual time when the second file is <u>scheduled to be updated</u>.

The Yamane et al. reference discloses a system that downloads data from a network by

<u>predicting</u> when the data <u>might</u> be updated. The system disclosed by the Yamane et al. reference

either looks for that information within the file (i.e., the last time the file was updated) or <u>predicts</u>

when the data <u>might</u> be updated based upon the history of previous updates of the file. The

system <u>predicts</u> when the data <u>might</u> be updated, downloads the data, checks to see if the data has

<u>really</u> been updated and, if not, it refines the <u>prediction</u> of when the data <u>might</u> be updated (col. 8,

lines 22 - col. 9, line 15).

In stark contrast, the present invention relies upon the actual time that the file is

<u>scheduled to be updated</u> as specified by the server rather than relying upon some algorithm that is

performed by a client that <u>attempts to predict</u> when the file <u>might</u> be updated. As noted by the

Yamane et al. reference which acknowledges that the system must check to see has really been

updated, the Yamane et al. reference merely attempts to predict when the file might be updated

rather than relying upon the actual time that the file has been scheduled to be updated.

The Yamane et al. reference very clearly explains that a "next update prediction time

storage section 105 has the function of relating a link to the next update prediction time of the

data item specified by the link, storing them, and outputting and updating the next update

prediction time." (Emphasis added, col. 4, lines 35-39).

Further, the Yamane et al. reference very clearly explains that an "update history storage

section 108 relates a link to the update history (history table) of the data item specified by the

link and stores them. The update history storage section 108 has the function of adding the

update history and the function of calculating the next update prediction time of each link from

the update history corresponding to each link." (Emphasis added, col. 4, lines 42-48).

"Since all of the pieces of information stored in these storage sections are related through

links, the next update prediction time storage section 105 and the update history storage section

108 may not have physically different storage units. Therefore, they are stored in a common

storage unit to have the relationship as shown in FIG. 2." (Emphasis added, col. 4, lines 57 - 62).

"First, the next update prediction time to be outputted and updated by the next update

prediction time storage section 105 is stored so as to correspond to each link. As shown in FIG.

2, four next update prediction times July 1 12:00, July 1 17:00, July 1 20:00, (sic) are stored so as

to correspond to the four links."

In other words, the Yamane et al. reference discloses a system that downloads data from a

network based upon a prediction of when the data might be updated. The system disclosed by

the Yamane et al. reference either looks for that information within the file (i.e., the last time the

file was updated) or predicts when the file might be updated based upon the history of previous

updates of the file. The system predicts when the file might be updated, downloads the data,

checks to see if the data has really been updated and, if not, it refines the prediction of when the

file might be updated (col. 8, lines 22 - col. 9, line 15).

In particular, the Yamane et al. reference very clearly explains that the update prediction

times that are stored in the update prediction time storage section 105 are calculated "from the

update history corresponding to each link." (Col. 4, lines 44 - 47).

This very clearly illustrates that the Yamane et al. reference does not teach or suggest an

actual time of when a file is scheduled to be updated, because the Yamane et al. reference is

forced to perform a calculation based upon the history of previous updates of a corresponding file

in order to predict (i.e., guess, estimate, assume) when the file might be updated.

In stark contrast to the Yamane et al. reference, the present invention relies upon the

actual time that the file is scheduled to be updated as specified by the server rather than relying

upon some algorithm that is performed by a client that attempts to predict when the file might be

updated. As noted by the Yamane et al. reference which acknowledges that the system must

check to see has really been updated, the Yamane et al. reference merely attempts to predict when

the file might be updated rather than relying upon the actual time that the file has been scheduled

to be updated.

Clearly, the Examiner's citation of Figure 2, does not support the Examiner's allegation

that the Yamane et al. reference teaches or suggests time data that includes an actual time when

the second file is <u>scheduled to be updated.</u>

Rather, Figure 2 of the Yamane et al. reference merely discloses a <u>prediction</u> of when a

file <u>might</u> be updated.

Appellant respectfully requests a reversal of the Examiner's rejection and allowance of

the present application.

VIII. CLAIMS APPENDIX

Claim 1.   A method for searching files stored on a network, comprising:

downloading a first file on the network from a server to a client;

accessing time data from within the first file; and

setting an accessing time to access a second file on said server based on said time data

from the first file, wherein said time data includes an actual time when said second file is

scheduled to be updated.

Claim 2.   The method of claim 1, wherein the second file is an updated version of the first

file.

Claim 3.   The method of claim 1, further comprising selecting a second file to download

based on said time data downloaded from the first file.

Claim 4.   The method of claim 1, wherein said time data comprises a channel definition

format file (CDF).

Claim 5.   The method of claim 1, wherein said setting an accessing time comprises:

analyzing the time data from the first file to estimate when a second file is scheduled to

be updated; and

assigning the accessing time based on said estimate of when the second file is scheduled

to be updated.

Claim 6.   The method of claim 3, wherein said setting an accessing time comprises:

analyzing the time data from the first file to estimate when a second file is scheduled to

be updated; and

assigning the accessing time based on said estimate of when the second file is scheduled

to be updated.

Claim 7.   A method for searching files on a network, comprising:

accessing a server on the network from a client;

downloading a first file from said server to said client;

accessing time data from within said first file; and

setting an accessing time to re-access the server based on said time data from the first file,

wherein said time data includes an actual time when a second file is scheduled to be updated.

Claim 8.   The method of claim 7, further comprising:

accessing the server based upon the accessing time; and

downloading a second file from the server.

Claim 9.   The method of claim 8, wherein the second file is an updated version of the first

file.

Claim 10.   The method of claim 7, further comprising selecting said second file to download

based on said time data downloaded from the first file.

Claim 11.   The method of claim 8, further comprising selecting said second file to download

based on said time data downloaded from the first file.

Claim 12.   The method of claim 7, wherein said data comprises a channel definition format

file (CDF).

Claim 13.   The method of claim 7, wherein said setting an accessing time comprises:

analyzing the time data from the first file to estimate when a second file is scheduled to

be updated; and

assigning the accessing time based on said estimate of when the second file is scheduled

to be updated.

Claim 14.   The method of claim 13, wherein the accessing time is after the scheduled update

of the second file.

Claim 15.   The method of claim 8, wherein said setting an accessing time comprises:

analyzing the time data from the first file to estimate when a second file is scheduled to

be updated; and

assigning the accessing time based on said estimate of when the second file is scheduled

to be updated.

Claim 16.   The method of claim 10, wherein setting an accessing time comprises:

analyzing the time data from the first file to estimate when a second file is scheduled to

be updated; and

assigning the accessing time based on said estimate of when the second file is scheduled

to be updated.

Claim 17.   A system comprising a machine readable recording medium storing a program for

searching through files stored on a network, said program including executable instructions for:

downloading a first file on the network from a server to a client; and

accessing time data from within the first file; and

setting an accessing time to access a second file on said server based on said time data

from the first file, wherein said time data includes an actual time when said second file is

scheduled to be updated.

Claim 18.   The system of claim 17, wherein the second file is an updated version of the first

file.

Claim 19.   The system of claim 17, further comprising selecting said second file to access

based on said time data downloaded from the first file.

Claim 20.   The system of claim 17, wherein said time data comprises a channel definition

format file (CDF).

Claim 21.   The system of claim 17, wherein setting an accessing time comprises:

        analyzing the time data from the first file to estimate when a second file is scheduled to

be updated; and

        assigning the accessing time based on said estimate of when the second file is scheduled

to be updated.

Claim 22.   The system of claim 19, wherein setting an accessing time comprises:

        analyzing the time data from the first file to estimate when said second file is scheduled

to be updated; and

        assigning the accessing time based on said estimate of when the second file is scheduled

to be updated.

Claim 23.   A system for searching files stored on a network, comprising:

       means for downloading a first file on the network from a server to a client;

       means for accessing time data from within the first file; and

       means for setting an accessing time to access a second file on said server based on said

time data from the first file, wherein said time data includes an actual time when said second file

is scheduled to be updated.

IX.   EVIDENCE APPENDIX

       No evidence is being submitted with this brief on appeal and no evidence has been

entered in the record by the Examiner or by the Appellant in the present application.

X.   RELATED PROCEEDINGS APPENDIX

       There are no decisions rendered by a court or the Board in any related appeals and/or

interferences.

XI.   CONCLUSION

       In view of the foregoing, Appellant respectfully requests reversal of the final rejection
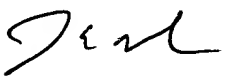
and allowance of all of claims 1-23.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any

overpayment in fees to Assignee's Deposit Account No. 09-0441.

Respectfully Submitted,

Date: _6/7/0S_   _____

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